

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 292 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and Sd/-

Hon'ble MR.JUSTICE P.B.MAJMUDAR Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? YES
 2. To be referred to the Reporter or not? YES :
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? NO
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? NO
 5. Whether it is to be circulated to the Civil Judge? : NO
NO

COMMISSIONER OF INCOME TAX

Versus

SEVEN SYNTHETICS

Appearance:

MR BB NAIK with MR MANISH R BHATT for Petitioner
MR DA MEHTA with MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE P.B.MAJMUDAR
Date of decision: 28/09/1999

ORAL JUDGEMENT (Per B.C.Patel, J.)

The Commissioner of Income-tax, Surat has preferred this application under section 256 (2) of the Income-tax Act, 1961 (hereinafter referred to as the

Act). The Tribunal was requested to make a reference on the following questions of law:

"1. Whether on the facts and in the circumstances of the case and in law, the I.T.A.T. was justified in deleting the addition of Rs.2,80,480 in the block periods made by the Assessing Officer by drawing an inference from the seized materials?"

2. Whether on the facts and in the circumstances of the case and in law the I.T.A.T was justified in deleting the additions of Rs.3,68,776/- u/s. 69 to the disregard of materials relied by the assessing officer?"

2. So far as Question No.1 is concerned, the Tribunal considering the decision of this Court in the case of N.R.PAPER & BOARDS LTD. reported in 234 ITR page 733, by a common judgment, has rejected the application. We have also passed an order in ITA No.266 of 1999 covering this question raised in this application. In view of the decision rendered in ITA No.266 of 1999, the Tribunal has rightly rejected the application so far as Question No.1 is concerned.

3. So far as Question No.2 is concerned, it is required to be noted that the Assessing Officer instead of referring the case of the assessee to the District Valuation Officer, himself estimated the cost of construction by adopting the cost of construction at Rs.3,200 per sq. mt. and after allowing contractor's margin of profit at 7.5%, estimated the total cost of construction of the factory building at Rs.40,50,000. Considering admission, there was unexplained investment of Rs.3,68,776. The Tribunal while rejecting the application pointed out that where there is a question of

valuation, it is necessary for the Assessing Officer to refer the matter to the District Valuation Officer so as to ascertain the correct value and to come to a correct conclusion.

4. In view of what is stated hereinabove and the finding recorded by the Tribunal, we find no reason to interfere with the order of the Tribunal. We accordingly reject this application. Rule is discharged with no order as to costs.

(KMG Thilake)

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